

REMARKS

Claims 1-23 and 25-83 are pending, claims 1-3, 5-7, 13, 15, 16 and 25-35 are under examination, and claims 4, 8-12, 14, 17-23 and 36-83 are withdrawn. Applicants have cancelled claims 26-35, 43-48, 62-72 and 79-83. Applicants have amended claims 1, 39, 40, 52-54, 58, 59, 75 and 76. The amended claims are supported throughout the application, e.g., at page 3, lines 2-8; page 5, lines 9-13; and page 5, Table 1. No new matter has been added.

Upon entry of the current amendment, claims 1-23, 25, 36-42, 49-61 and 73-78 will be pending, and claims 1-3, 5-7, 13, 15, 16 and 25 will be under examination.

Rejections under 35 U.S.C. § 112

The Examiner has rejected claims 1-3, 5-7, 13, 15, 16 and 25-35 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement and for introducing new matter that did not appear in the specification or original claims, as filed.

Claim 1 recites a peptide, the sequence of which consists of part or all of SEQ ID NO:1, wherein the sequence comprises SEQ ID NO:2 or SEQ ID NO:3. According to the Examiner, “claim 1 is drawn to a subgenus of peptides contained within the genus of peptides that are ‘all or part of SEQ ID NO:1’”. While the Examiner acknowledges that SEQ ID NO:2 and SEQ ID NO:3 are two species within this genus, the Examiner notes that “[a]lthough the specification mentions peptides comprising SEQ ID NO:2 or comprising SEQ ID NO:3, there does not appear to be a description of those peptides limited to SEQ ID NO:1.” Thus, the Examiner asserts that the specification does not provide an adequate written description of the subgenus of peptides of claim 1.

The Examiner has rejected claim 28 for similar reasons. Claim 28 recites a peptide, the sequence of which consists of part or all of SEQ ID NO:2 or 3, wherein the sequence comprises amino acid residues 7-16 of SEQ ID NO:1. The Examiner asserts that claim 28 “attempts to define a subgenus based upon the disclosure of a genus (e.g., peptides that are all or part of SEQ ID NO:2) and a single species (the peptide defined by residues 7-16 of SEQ ID NO:1).”

According to the Examiner, claims 1 and 28 introduce new matter in violation of 35 U.S.C. § 112, first paragraph.

The Examiner has rejected dependent claims 2, 3, 5-7, 13, 15, 16, 25-27 and 29-35 as being based on rejected independent claims 1 and 28.

Applicants disagree that the claims as written fail to comply with the written description requirement. However, in order to move the case to allowance, Applicants have limited claim 1 to three specific peptides that are explicitly disclosed in the specification, e.g., at page 3, lines 2-8; page 5, lines 9-13; and page 5, Table 1. As such, the amendment does not add new matter.

Claims 26 -35 have been cancelled. Applicants request that the Examiner withdraw the rejection of claims 1-3, 5-7, 13, 15, 16 and 25.

Claims withdrawn from consideration

Withdrawn claims 36-83 recite methods of use of the claimed compositions. Withdrawn method claims 36-38, 41, 42, 49-52, 55-57, 60, 61, 73, 74, 77 and 78 are commensurate in scope with the composition claims. Claims 39, 40, 53, 54, 58, 59, 75 and 76 have been amended and are now of the same scope of the composition claims. Thus, withdrawn claims 36-42, 49-61 and 73-78 qualify for rejoinder practice. Claim 52 has been amended to correct a minor grammatical error (to change "comprising" to "comprises"); this amendment does not change the scope of the claim. Withdrawn claims 43-48, 62-72 and 79-83 have been cancelled by the present amendment.

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Applicants request that all claims be allowed. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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